MULTIMEDIA UNIVERSITY

STUDENT ID NO

MULTIMEDIA UNIVERSITY

FINAL EXAMINATION

TRIMESTER 1, 2022/2023 (TERM ID 2210)

UIB2612 ISLAMIC BANKING AND FINANCE LAW

(All Sections / Groups)

06 FEBRUARY 2023
Reading Time: 9.00 a.m. - 9.15 a.m.
Answering Time: 9.15 a.m. - 12.15 p.m.
(3 Hours 15 Minutes)

INSTRUCTIONS TO STUDENT

1. Students will have fifteen minutes during which they may read the paper and make rough notes ONLY in their question paper. Students then have the remaining THREE HOURS in which to answer the questions.

2. This Question paper consists of 3 pages with 5 Questions only.

3. Attempt **TWO (2)** questions from Part A and **ALL** questions from Part B. All questions carry equal marks and the distribution of the marks for each question is given.

4. Students are allowed to bring into the exam venue the CLEAN and ORIGINAL COPY of: Islamic Financial and Services Act 2013; and (ii) Central Bank of Malaysia Act 2009. "Clean" is defined to include no tagging, no annotation either by the publisher or anyone else, and no erased marking. Highlighting and underlining are also prohibited.

5. Please write all your answers in the Answer Booklet provided.

PART A

ANSWER TWO (2) QUESTIONS

QUESTION 1

"In the event any litigation is commenced, it must be appreciated that not every presiding judge is a Muslim, and even if so, may not be sufficiently equipped to deal with the matters, which ulama take years to comprehend."

(Judgement of Suriyadi Halim Omar J in the case of Arab Malaysian Merchant Bank Bhd v. Silver Concept Sdn Bhd [2005] 5 MLJ 210)

Analyse the above statement with regard to adjudication of Islamic Banking matters in Malaysia. Your analysis must be supported with relevant provisions and case law.

(Total: 25 Marks)

QUESTION 2

Takaful is an Arabic word which means "guaranteeing each other". The concept is in line with the Shariah principle of compensation and shared responsibilities among the participants.

(a) Discuss the permissibility of *Takaful* in Islam with reference to Shariah rulings and authorities in *Islamic Muamalat* and how prohibited elements are eliminated in its model.

(13 marks)

(b) Explain the following concepts of Takaful:
   i. *Tabarru';* and
   ii. *Taawwun;* and
   iii. *Al Mudharabah* concept in Takaful.

(12 marks)

(Total: 25 marks)

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QUESTION 3

"Islamic banking and finance is not only subject to the Shariah laws but also governed by the federal laws passed by the Parliament such as the contract law, land law, company law and other laws of general application."

(Islamic Finance Litigation: Problems within the Malaysian Civil Courts Structure (2016))

Critically discuss on the competency of court and its jurisdiction to adjudicate Islamic financial disputes and the structural problems exist within the court system. Cite the relevant provision and cases.

(Total: 25 Marks)

Continued...

PART B

ANSWER ALL QUESTIONS

QUESTION 4

(a) *Musharakah Mutanaqisah* includes not only partnership, but also ijarah and sale. It has been invented through the gradual development of Islamic banking products. The concept of partnership and its ruling is discussed in the classical Fiqh books. *(Al- Sarakhsi,* 1978; *Al- Kasani,* 1983)

Discuss in detail home financing products offered by Islamic Financial Institutions (IFIs) in Malaysia using the concept of *Musharakah Mutanaqisah* and how the banks make profit without having to impose interest as found in conventional housing loans.

(13 marks)

(b) Illustrate the concept of *Murabahah* in Home Financing-i offered by Islamic Financial Institutions (IFIs) in Malaysia.

(12 marks)

(Total: 25 Marks)

QUESTION 5

An Islamic personal financing is one that follows the Islamic Banking principles. Being Shariah compliant means it does not have fixed or floating interest rates or fees (also known as *riba* or usury).

Explain the Islamic personal financing using the *Tawarruq* model.

(Total: 25 marks)

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